

EXHIBIT 9

GLORIA L. FRANKLIN, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

Signed and Filed: June 20, 2012



Dennis Montali

DENNIS MONTALI
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re) Bankruptcy Case
10 FERMIN SOLIS ANIEL and ERLINDA) No. 09-30452DM
11 ABIBAS ANIEL,)
12 Debtors.) Chapter 7

13

ORDER DENYING DEBTORS' REQUESTED CERTIFICATIONS
REGARDING EFFECT OF DISCHARGE ON SECURED DEBTS

On June 18, 2012, Debtors submitted several "Certification[s] of Debtors' Discharge" for the court's signature. These Certifications purport to treat the debts secured by deeds of trust on Debtors' residence and other properties discharged and to determine those deeds of trust as void. To the extent the submitted certifications constitute motions for such relief, they are denied.

Although their personal liability for any deficiency remaining after any foreclosure sale of the properties has been discharged (assuming it even existed in the first place under California law), the deed of trust liens are unaffected by the discharge. Such secured debts "pass through" the bankruptcy. While Debtors did receive a discharge on December 2, 2010, that discharge does not eliminate debts secured by property. Dewsnup

v. Timm, 502 U.S. 410, 418-19 (1992); Johnson v. Home State Bank, 501 U.S. 78, 84 (1991) (liens on a debtor's property are unaffected by a chapter 7 discharge).

4 Johnson is the seminal case establishing the status of a
5 creditor's lien on a debtor's property after a chapter 7
6 discharge. The Supreme Court held that a discharge in a chapter 7
7 extinguishes the debtor's *in personam* liability for the debt, but
8 "a creditor's right to foreclose on the mortgage survives or
9 passes through the bankruptcy." Johnson, 501 U.S. at 83 (citations
10 omitted). According to the Supreme Court, even after a debtor's
11 personal obligations have been extinguished, the mortgage holder
12 still retains a "right to payment" in the form of its right to the
13 proceeds from the sale of the debtor's property. The surviving
14 mortgage interest corresponds to an "enforceable obligation" of a
15 discharged debtor.

16 For the foregoing reasons, Debtors' request that the court
17 enter certifications that their secured debts have been discharged
18 and that the deeds of trust on their residence and other
19 properties are void is DENIED.

*** END OF ORDER ***

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